

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KEITH GUTHRIE, *individually, on a
representative basis, and on behalf of all
others similarly situated,*

Plaintiff,

v.

ITS LOGISTICS, LLC,

Defendant.

Case No. 1:21-cv-000729-KES-EPG

**AMENDED ORDER¹ PERMITTING
SUPPLEMENT IN SUPPORT OF
PLAINTIFF'S MOTION FOR CLASS
CERTIFICATION AND PRELIMINARY
APPROVAL OF A CLASS ACTION
SETTLEMENT**

(ECF No. 79)

Plaintiff Keith Guthrie has filed an unopposed motion to certify the settlement class and preliminarily approve the parties' proposed settlement. (ECF No. 79). The Court held a hearing on May 1, 2025, and invited Plaintiff to address the issues discussed at the hearing in a supplemental filing. (ECF No. 83). These issues are as follows:

1. Plaintiff supports the motion with the declaration of Timothy Aboussleman (Defendant's Senior Director of Logistics). However, the declaration is not signed or dated. (ECF No. 79-2, p. 46).
2. The motion states that the proposed Class Notice is attached as Exhibit 1 to the Settlement Agreement. (ECF No. 79-1, p. 6 n.1). However, it is not attached to the

¹ The Court issues this amended order correcting the numbering of issues that Plaintiff is directed to address in a redlined or amended motion. Specifically, the original order identified issues 3 and 4 to be addressed in this manner, rather than issues 4 and 5 as noted in this amended order.

1 settlement agreement.

2 3. The motion lacks specific support for the \$7,500 proposed class service award. (ECF
3 No. 79-1, p. 48).

4 4. Some of the claims are calculated from 3/1/19 to “5/31/303”. (See ECF No. 79-1, pp.
5 16-17).

6 5. There appear to be errors regarding the valuation of the claims. Plaintiff is directed to
7 review all calculations in the motion and correct any figures, values, and percentages
8 that are incorrect. The Court identified a few of the apparent errors at the hearing as
9 follows:

10 a. The calculation used to determine the maximum value of stop pay claims for
11 mileage-rate shifts: “Stop Pay (Est. 2 stops per day @ \$12.50) per contract [4,125
12 days \$103,800 driven @ mileage rate x est. 2 stops per day x \$12.50].” (ECF No.
13 79-1, p. 36). It appears that Plaintiff is saying that 2 stops per day x \$12.50 per
14 stop x 4,125 days = \$103,800. However, 2 stops x 12.50 per stop x 4,125 days =
15 \$103,125 (or \$675 less than \$103,800). And if these calculations are correct, there
16 would then be further derivative errors based on these values being used in further
17 calculations. For example, it would mean that the maximum value of the failure-
18 to-pay-wages claims is not \$496,655 as Plaintiff asserts but \$495,980 (calculated
19 by subtracting \$675 (the difference between \$103,800 and \$103,125) from
20 \$496,665).

21 b. For the failure-to-timely-pay-wages claims, the calculation for the \$2,059,669
22 value for the flat-rate shifts does not add up. (ECF No. 79-1, p. 40). Specifically,
23 Plaintiff offers a calculation of 203 former flat rate drivers x \$337.54 for the
24 average daily flat rate x 30 (presumably 30 days under Labor Code § 203(a)).
25 However, $203 \times \$337.54 \times 30 = \$2,055,619$, not \$2,059,669.

26 c. For the failure-to-timely-pay-wages claims, the body of the brief states that
27 “Plaintiff calculated the maximum waiting time penalties to be \$2,148,623,”
28 however, the chart provided lists \$2,197,655. (ECF No. 79-1, p. 40).

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Accordingly, IT IS ORDERED as follows:

1. By no later than June 6, 2025, Plaintiff is permitted to file a supplement addressing the above issues.
2. **For issues 4 and 5**, Plaintiff is directed to submit a redlined copy of the original motion and attachments (ECF No. 79 to 79-3), with any errors corrected in red font in the motion and attachments, so that the Court can easily see what was corrected. Alternatively, Plaintiff may file an amended motion that supersedes the original, with corrected calculations.

IT IS SO ORDERED.

Dated: May 1, 2025

/s/ Eric P. Gray
UNITED STATES MAGISTRATE JUDGE